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OFFICE OF PETITIONS

In re Application of :
Srikanth Krishnamurthy et al :
Application No. 10/816,546 : DECISION ON REQUEST
Filed: April 1, 2004 :
Attorney Docket No. HRL040-C :

This is a decision on the Request for Refund filed March 10, 2008.

The request is **DISMISSED**.

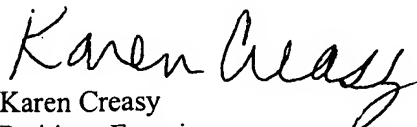
This application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice), mailed June 18, 2004. The Notice set a period for reply of Two (2) Months. No reply having been received, the application became abandoned on August 19, 2004. The Office mailed a Notice of Abandonment on March 15, 2005. Applicant filed a petition to revive under 37 CFR 1.137(b) on April 15, 2005. The petition was granted on January 12, 2006.

On February 29, 2008, the Office mailed a Notice entitled: "Withdrawal Of Previously Sent Notice" stating that the "Notice of Abandonment mailed on March 15, 2005, was sent in error and is hereby withdrawn." However, the Office erred in mailing the Notice of February 29, 2008, since the application was properly abandoned on August 19, 2004.

Further, it is noted that the phrase "[o]n filing" in 35 U.S.C. 41(a) (7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Therefore, the Office: (A) will not refund the petition fee required by 37 CFR 1.17(1) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (B) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee. MPEP 711.03(c) (III) (B).

The Office sincerely apologizes for the error in the mailing of the Notice on February 29, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.


Karen Creasy
Petitions Examiner
Office of Petitions